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Attorneys for Plaintiff Cyberlux Corporation
and Donald F. Evans

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CYBERLUX CORPORATION,

Plaintiff,

vs.

AJW PARTNERS, LLC, AJW
OFFSHORE, LTD., AJW QUALIFIED
PARTNERS, LLC, and NEW
MILLENNIUM CAPITAL PARTNERS
II, LLC,

Defendants.

DOCKET NO.: 07-cv-7808 (DAB)

Civil Action

**DECLARATION OF
ERNEST E. BADWAY**

ERNEST EDWARD BADWAY, of full age, hereby declares as follows:

1. I am an attorney-at-law of the State of New York, duly admitted to the United States District Court for the Southern District of New York, and a member of the law firm of Saiber Schlesinger Satz & Goldstein, LLC, attorneys for Plaintiff Cyberlux Corporation and Donald F. Evans (collectively, "Plaintiffs").¹

¹ We will use the appropriate designations for the parties as indicated in Cyberlux's first-filed, federal action, 07-cv-7808 (DAB), and not Defendants' duplicative, later-filed state court action.

2. Attached hereto as Exhibit A is a true and correct copy of Cyberlux's Complaint, dated September 7, 2007.

3. Attached hereto as Exhibit B is a true and correct copy of Defendants' second-filed state Complaint, dated September 17, 2007.

4. I directed that Internet research be performed on October 12, 2007 on Gary M. Post by performing a Google search (www.google.com), that revealed a Form 8-K filed by OXIS International, Inc. with the United States Securities and Exchange Commission on ("SEC") September 27, 2007. Attached as Exhibit C is a true and correct copy of that Form 8-K.

5. The Form 8-K indicates that "[s]ince 1999[,] Mr. Post has been the Managing Director and Investment Principal of Ambient Advisors, LLC" ("Ambient Advisors"). See Id.

6. The Form 8-K also indicates that "[o]n September 24, 2007[,] the board of directors of OXIS International, Inc. [(("OXIS")) appointed Gary M. Post as the Chief Operating Officer of OXIS International, effective immediately." See Id.

7. Further research revealed that Ambient Advisors is a company with its exclusive place of business at "100 North Crescent Drive, Suite 305, Beverly Hills, California 90210." A true and correct copy of Ambient Advisors' website contact page is attached as Exhibit D.

8. Further research revealed also revealed that OXIS is a company with its exclusive place of business at "323 Vintage Park Drive, Suite B, Foster City, California 94404-1136." A true and correct copy of OXIS' website contact page is attached as Exhibit E.

9. Attached as Exhibit F is a true and correct copy of National Area Codes Form by HunTel, retrieved by a Google search on October 12, 2007.

10. A Google search failed to identify any connection between Mr. Post and Nevada.

11. Defendants' claims that their counsel somehow "telegraphed" their position to me, making Plaintiffs' Notice of Removal moot, is simply laughable. After reviewing Defendants' papers, clearly this Court will note Defendants' arguments are misleading, submitted in bad-faith, and seriously disingenuous. Frankly, if I had followed the "advice" of Defendants' counsel and "rolled-over," such practice would have been malpractice on my part.

12. Attached as Exhibit G is a true and correct copy of the Stipulated Order executed by Thomas J. Fleming on June 29, 2007.

13. Attached as Exhibit H is a true and correct copy of the Order by Judge Crotty, dated June 6, 2007.

I verify and declare under penalty of perjury, pursuant to the laws of the United States of America, that the foregoing statements made by me are true and correct to the best of my current knowledge.

/s/ Ernest E. Badway
ERNEST E. BADWAY

Date: New York, New York
October 15, 2007